



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup
Professionals

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PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on March 27, 2012

[Approved on May 15, 2012]

Prepared by: Terry Wood

Meeting Location: MassDEP, Central Regional Office, Worcester, MA

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of meeting on January 24, 2012
3. Active Case List

1. **Call to Order:** Kirk Franklin called the meeting to order at 1:23 p.m. Also present were Elizabeth Callahan, Deborah Farnsworth, Debra Listernick, Kelley Race and Farooq Siddique. Board members absent: Gail Batchelder, John Guswa, Christophe Henry, and Robert Luhrs. Staff members present were Beverly Coles-Roby, Terry Wood, Lynn Read, and Allen Wyman. Also present were Wendy Rundle, LSP Association Executive Director, and Wes Stimpson, also of the LSPA.

2. **Announcements:** Ms. Wood stated that the Agenda has been modified by adding the following new item: Item 5B under New Business: a question regarding the renewal of an LSP whose disciplinary suspension is scheduled to end in a few days.

3. **Previous Minutes:** The draft minutes of the meeting held on January 24, 2012, were approved as written.

4. **Old Business**

A. Status of CRTS

At Mr. Franklin's request, each CRT reported on progress made since the January meeting.

B. Report from screening team re: complaint 11C-03

At its meeting on January 24, 2012, the Committee received and discussed a report from Ms. Read and Mr. Siddique as members of the screening team for complaint no. 11C-03. Ms. Batchelder, the third member of the team, was not present at the January meeting, and, after discussion, the Committee members tabled further discussion of the complaint until she could attend. Considering Ms. Batchelder was also not in attendance at today's meeting, the Committee members tabled the matter and requested a report from the full screening team at the next meeting.

5. New Business

A. How to handle MassDEP complaint addendum

Ms. Read reported that in February, MassDEP sent the staff a Notice of Noncompliance-Invalid RAO ("NON") regarding work by an LSP who is the subject of a pending disciplinary investigation. A copy of the NON was not presented to the Committee members and neither the identity of the site nor the identity of the LSP was disclosed. MassDEP had inquired whether the Board wanted to add the new NON to the existing case. Ms. Read said that, since an adjudicatory appeal hearing has already been held regarding the existing disciplinary case, the new NON could not be added at this point. Ms. Read and Ms. Wood explained that the Board has two options for handling this NON. The Board could inform MassDEP that a new complaint would be required if the Department wanted the LSP Board to investigate the LSP's work at this site. Alternatively, because anyone, including Board staff and Board members, may file a complaint upon learning of allegations that are within the Board's jurisdiction, the Board staff could assign a new complaint number to the NON. Ms. Read and Ms. Wood explained that, if Board staff were to assign a complaint number to the NON, the complaint would be handled in the normal course: the LSP would be afforded an opportunity to respond, after which redacted copies of the NON and any LSP response would be forwarded to members of the Committee to vote whether to accept the complaint for investigation or dismiss it.

After discussion, a motion was made and seconded that the staff determine whether the issues in the NON are within the Board's jurisdiction and, if so, to attach a complaint number to the NON and forward it to the LSP to offer him/her an opportunity to respond to it. The motion passed with a vote of four (Ms. Callahan, Ms. Farnsworth, Mr. Franklin, and Ms. Race) in favor and two (Ms. Listernick and Mr. Siddique) opposed.

B. Question regarding the renewal of an LSP whose disciplinary suspension is scheduled to end in a few days

Ms. Wood reported that an LSP, whose disciplinary suspension is scheduled to end on April 1, 2012, is also required to renew his license prior to the end of the suspension period. She explained that, pursuant to 309 CMR 3.06(3), the LSP is required to demonstrate in his renewal application completion of a total of 64 credits (16 DEP regulatory and 48 other). Ms. Wood noted that these 64 credits were in addition to the 40 credits to be acquired from certain pre-approved courses in distinct subject areas as required under the terms of the LSP's

Administrative Consent Order with the Board. She stated that, in the LSP's recently-submitted renewal application, the LSP had listed three courses he had attended in this renewal period that he also attended and listed in his last renewal application. While these same courses were also listed in the previous renewal application, the LSP actually did not need the credits from these courses to renew because he had a total of 74 credits when only 48 were required. Considering that the Board's regulations state, at 309 CMR 3.09(2) (b), that an LSP may not repeat a course for credit in two subsequent renewal periods, Ms. Wood wanted to check with the Committee members that they did not have a problem with the LSP counting these same three courses in this renewal period since the credits from them had not been needed for the LSP's previous renewal. After discussion, a motion was made and seconded that these three courses could count toward the LSP's current renewal. The motion passed unanimously.

6. Future Meetings

The Committee next plans to meet in May. A specific date and time are yet to be determined.

7. Adjournment: The meeting was adjourned at 1:52 p.m.